



Internal Operating Practices and Procedures of the California Supreme Court (Revised July 17, 2002)¹

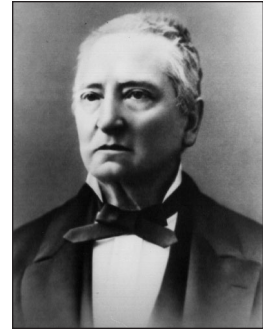
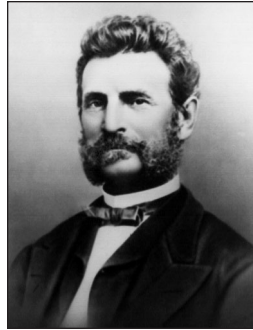
The following internal operating practices and procedures are observed by the California Supreme Court in the performance of its duties.²

I. ACTING CHIEF JUSTICE

An Acting Chief Justice performs the functions of the Chief Justice when the Chief Justice is absent or unable to participate in a matter. The Chief Justice, pursuant to constitutional authority (Cal. Const., art. VI, § 6), selects on a rotational basis an associate justice to serve as Acting Chief Justice.

1. These practices and procedures may be amended from time to time, as needed, to facilitate the court's ability to discharge its duties. Amendments are reflected in updated versions of the practices and procedures on the California Courts Web site at www.courtinfo.ca.gov/courts/supreme/iopp.htm.

2. Various provisions of the California Constitution, codes, and rules of court, as well as numerous provisions of the decisional law, bear on how the court functions. The court's internal operating practices and procedures should be considered in that context.



The California Supreme Court in 1850. Left to right: Associate Justice Henry A. Lyons, Chief Justice S. Clinton Hastings, Associate Justice Nathaniel Bennett.

II. TRANSFER OF CASES

A. All transfers to the Supreme Court of a cause in a Court of Appeal pursuant to article VI, section 12 of the California Constitution are accomplished by order of the Chief Justice made on a vote of four justices assenting thereto.

B. Unless otherwise ordered by the Chief Justice, all applications for writs of mandate and/or prohibition that have not previously been filed with the proper Court of Appeal are transferred to such court.

III. CONFERENCES

A. Unless otherwise directed by the Chief Justice, regular conferences are held each Wednesday, excluding the Wednesday of regular calendar sessions and the first Wednesday of July and August.

B. Special conferences may be called by the Chief Justice whenever deemed necessary or desirable.

C. Four justices constitute a quorum for any regular or special conference.

D. A judge assigned by the Chief Justice to assist the court, or to act in the place of a regular member of the court who is disqualified or otherwise unable to act, may be counted to obtain a quorum for a conference. A regular member of the court, present at a conference, who is not participating in a particular matter is not counted in determining a quorum for that matter.

E. A justice who has ascertained that he or she will not be present at a conference or will not be participating in a particular matter will notify the Chief Justice or the Calendar Coordinator, as specified by sections XII.C and XIII.A. The absent justice may leave in writing his or her votes on some or all of the matters on any given conference, and may be counted to constitute a quorum for each such conference matter on which a vote has been left.

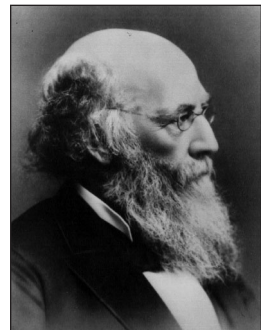
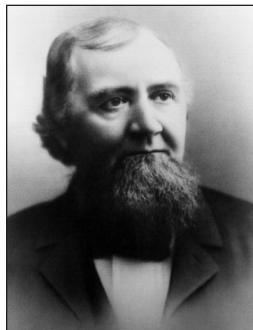
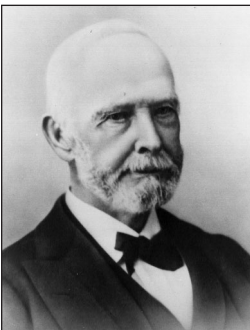
F. Matters in which time is of the essence may be considered by the court without a formal conference. In such matters, because time is of the essence, an order will be filed as soon as four justices vote for a particular disposition.

IV. CONFERENCE MEMORANDA

A. Unless otherwise directed by the Chief Justice, a conference memorandum is prepared for each petition requiring conference consideration or action.

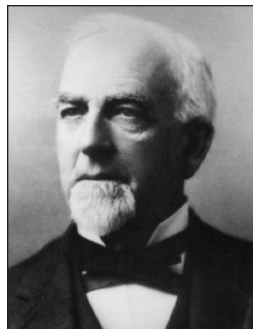
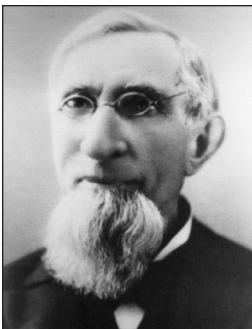
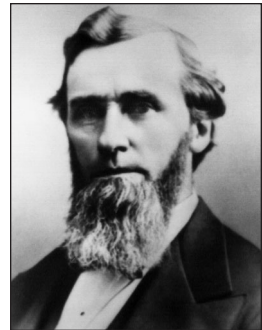
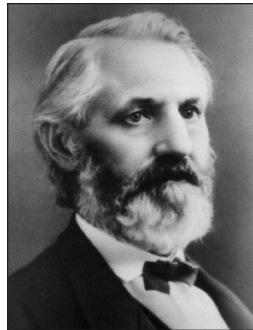
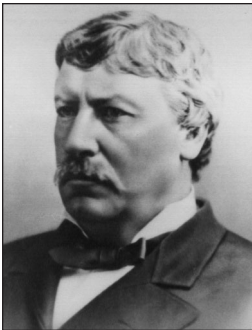
B. Upon the filing of a petition, motion, or application, the Calendar Coordinator, under the direction of the Chief Justice, assigns it a conference date and refers it to one of the central staffs or a member of the court for preparation of a conference memorandum as follows:

1. Petitions in civil cases, to the civil central staff.
2. Petitions in or derived from criminal cases, other than cases arising from judgments of death, to the criminal central staff.

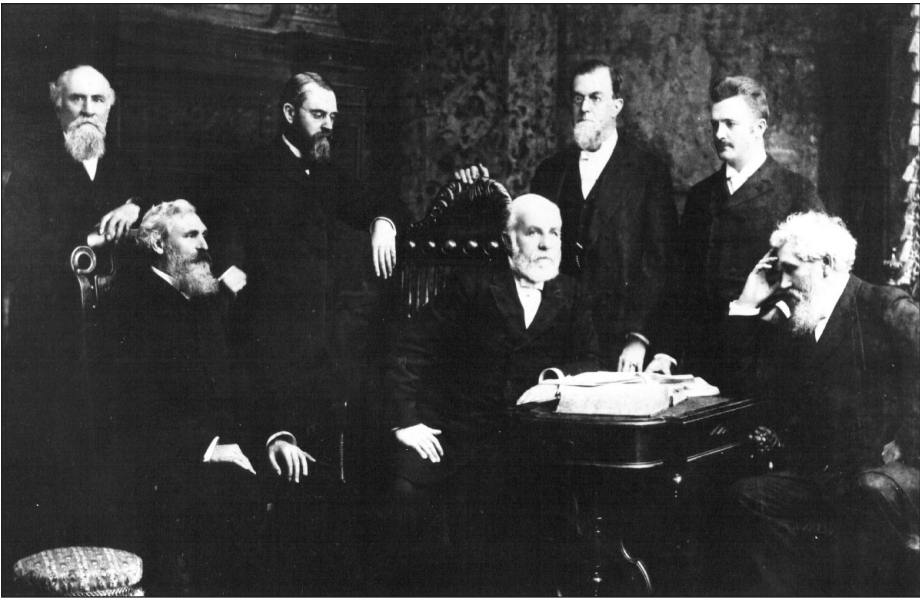


The California Supreme Court in 1857. Left to right: Associate Justice Peter H. Burnett, Chief Justice David S. Terry, Associate Justice Stephen J. Field.

3. Applications for writs of habeas corpus arising out of criminal proceedings, other than cases arising from judgments of death, to the criminal central staff.
4. Motions in criminal cases arising from judgments of death, to the six associate justices and the Chief Justice, or to the capital central staff.
5. Applications for writs of habeas corpus arising out of judgments of death, to the six associate justices and the Chief Justice, or to the capital central staff.
6. Applications to the Supreme Court pursuant to article V, section 8 of the California Constitution for a recommendation regarding the granting of a pardon or commutation to a person twice convicted of a felony, to the criminal central staff.



The California Supreme Court in 1870. Top, left to right: Associate Justice William T. Wallace, Associate Justice Royal T. Sprague, Chief Justice Augustus L. Rhodes. Bottom, left to right: Associate Justice Joseph B. Crockett, Associate Justice Jackson Temple.



The California Supreme Court in 1890. Left to right: Associate Justice John R. Sharpstein, Associate Justice Charles N. Fox, Associate Justice John D. Works, Chief Justice William H. Beatty, Associate Justice James D. Thornton, Associate Justice A. Van R. Paterson, Associate Justice Thomas B. McFarland.

7. Petitions for review of State Bar proceedings pursuant to rule 952 et seq. of the California Rules of Court, to the civil central staff.
 8. All other petitions and applications, to the six associate justices and the Chief Justice in rotation so that, at the end of a given period of time, each justice will have been assigned an equal number of petitions. Petitions for rehearing after decision in the Supreme Court are referred to a justice, other than the author, who concurred in the majority opinion.
- C. The recommendation set forth in a conference memorandum will generally be one of the following: (1) "Grant," (2) "Grant and Hold," (3) "Grant and Transfer," (4) "Deny," (5) "Submitted," (6) "Denial Submitted," and (7) "Deny and Depublish." The designation "submitted" is used when the author believes the case warrants special discussion. The designation "denial submitted" is used when the author believes the peti-



The California Supreme Court in 1896. Left to right: Associate Justice Frederick W. Henshaw, Associate Justice W. C. Van Fleet, Associate Justice Thomas B. McFarland, Associate Justice Charles H. Garoutte, Chief Justice William H. Beatty, Associate Justice Jackson Temple, Associate Justice Ralph C. Harrison.

tion should be denied, but nevertheless believes some ground exists that could arguably justify a grant, or an issue is raised that otherwise warrants discussion by the court. The designation “deny and depublish” is used when the author does not believe the decision warrants review, but nevertheless believes the opinion is potentially misleading and should not be relied on as precedent.

D. The author of the conference memorandum assigns it to either the “A” or the “B” list. Cases assigned to the “A” list include all those in which the recommendation is to grant or take affirmative action of some kind, e.g., “grant and transfer” or “deny and depublish,” in which a dissenting opinion has been filed in the Court of Appeal, or in which the author believes denial is appropriate, but that the case poses questions that deserve special attention. Cases assigned to the “B” list concern routine matters, or application of settled law.

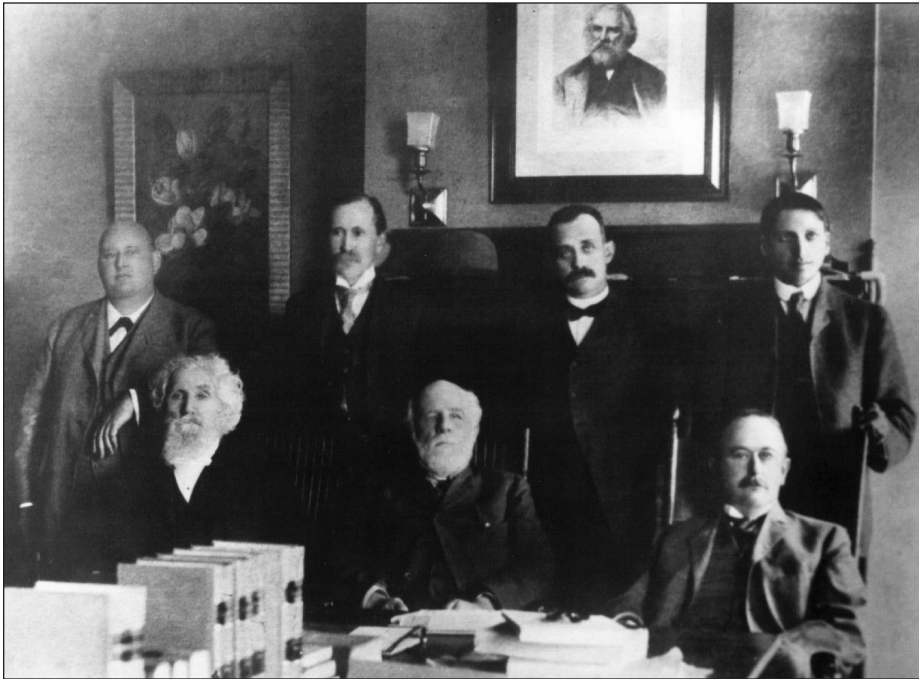
E. Conference memoranda are delivered by the author to the Calendar Coordinator for reproduction and distribution to the justices no later than the Tuesday of the

week before the conference, thus providing ample time for the justices and their staffs to review the petition and the court's internal memoranda.

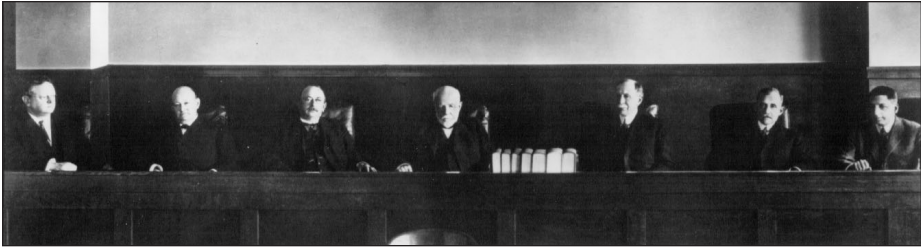
F. The court's Calendar Coordinator divides the weekly conference agenda into an "A" and "B" list, based on the designation appearing on each conference memorandum.

G. Matters appearing on the "A" list are called and considered at the conference for which they are scheduled. Before or after a vote is taken, any justice may request that a case be put over to a subsequent conference within the jurisdictional time limit for further study, preparation of a supplemental memorandum, or both. The time within which action thereon must be taken will be extended pursuant to rules 24 and 28 of the California Rules of Court, if necessary.

H. Matters appearing on the "B" list will be denied in accordance with the recommendation of the memorandum, at the conference at which they are scheduled, unless a



The California Supreme Court, 1906–1908. Left to right: Associate Justice William G. Lorgan, Associate Justice Thomas B. McFarland, Associate Justice Lucien Shaw, Chief Justice William H. Beatty, Associate Justice Frank M. Angellotti, Associate Justice Frederick W. Henshaw, Associate Justice M. C. Sloss.



The California Supreme Court in 1914. Left to right: Associate Justice Henry A. Melvin, Associate Justice William G. Lorigan, Associate Justice Frederick W. Henshaw, Chief Justice William H. Beatty, Associate Justice Lucien Shaw, Associate Justice Frank M. Angellotti, Associate Justice M. C. Sloss.

justice requests that a case be put over to a subsequent conference within the jurisdictional time limit for further study, preparation of a supplemental memorandum, or both.

I. In any case in which the petition, application, or motion is denied, a justice may request that his or her vote be recorded in the court minutes.

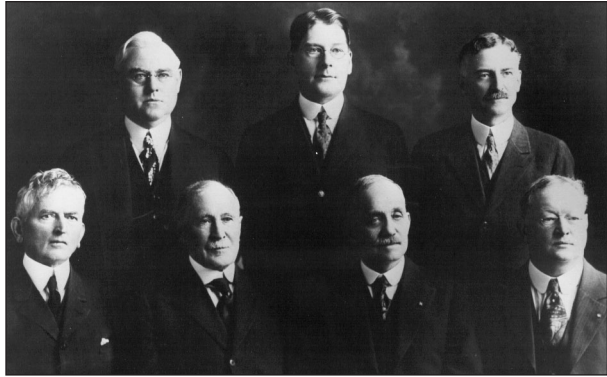
J. When a justice is unavailable or disqualified to participate in a vote on a petition for review or other matter and four justices cannot agree on a disposition, the Chief Justice, pursuant to constitutional authority (Cal. Const., art. VI, § 6), assigns on a rotational basis a Court of Appeal justice as a pro tempore justice to participate in the vote on the petition or matter. The assigned justice is furnished all pertinent petitions, motions, applications, answers, memoranda, and other material.

K. Either at the time review is granted, or at any time thereafter, the court may specify which of the issues presented should be briefed and argued.

L. Within 15 days after review is granted in a civil case or a criminal case in which a corporate entity is a party, each party must file a "Certification of Interested Entities or Persons" that lists any persons, associations of persons, firms, partnerships, corporations (including parent and subsidiary corporations) or other entities other than the parties themselves known by the party to have either (i) a financial interest in the subject matter of the controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding. This requirement does not apply to any governmental entity or its agencies. The Clerk's Office shall notify all parties including real parties in interest in writing of this requirement at the time the parties are notified of the court's grant of review.

V. CALENDAR SESSIONS FOR ORAL ARGUMENT

Regular sessions of the court are held each year, on a day or days as determined by the Chief Justice, in San Francisco, Los Angeles, and Sacramento. Special sessions may be held elsewhere by order of the Chief Justice or by order on a vote of four justices assenting thereto.



The California Supreme Court in 1920. Left to right: Associate Justice William P. Lawlor, Associate Justice Thomas J. Lennon, Associate Justice Lucien Shaw, Associate Justice Curtis D. Wilbur, Chief Justice Frank M. Angellotti, Associate Justice Warren Olney, Jr., Associate Justice Henry A. Melvin.

Unless otherwise ordered by the Chief Justice, the court convenes at 9:00 a.m.

Unless otherwise ordered, only one counsel may be heard for each side. Counsel wishing to divide the time for oral argument must request permission from the Court not later than ten days after the case has been set for oral argument. In no event shall oral argument be divided into segments of less than ten minutes, except that one counsel for the opening side (unless additional counsel are so authorized) may reserve a portion of his or her allotted time for rebuttal.

VI. CALENDARS AND CALENDAR MEMORANDA

A. The purpose of the calendar memorandum is to present the facts and legal issues, and to propose a resolution of the legal issues.

B. At the request of the justice preparing a calendar memorandum, or on direction of the Chief Justice, or on the affirmative vote of a majority of the court, the Clerk's Office will request counsel for the parties to be prepared to argue and to submit additional briefs on any points that are deemed omitted or inadequately covered by the briefs or in which the court is particularly interested.

C. In assigning cases for the preparation of calendar memoranda, the Chief Justice takes into account the following considerations, but may depart from these considerations for the purpose of equalizing the workload of the justices or expediting the work of the court:

1. The case is assigned to one of the justices who voted for review. If a case involves substantially the same issues as one already assigned for preparation of a calendar memorandum, it may be assigned to the justice who has the similar case. Preference in case assignments may be given to a justice who authored the conference memorandum or supplemental conference memorandum on which the petition was granted, unless other factors, such as equalization of workload, suggest a different assignment.
2. Granted petitions in other matters and State Bar proceedings originally referred to the central staffs are generally assigned to the justices in such a manner as to equalize each justice's allotment of cases.
3. Appeals in cases in which the death penalty has been imposed are assigned in rotation as they are filed.
4. When a rehearing has been granted and a supplemental calendar memorandum is needed, the matter will ordinarily be assigned to the justice who prepared the prior opinion if it appears that he or she can present the views of the majority. Otherwise, the case will be assigned to a justice who is able to do so.



The California Supreme Court in 1922. Left to right: Associate Justice Charles A. Shurtleff, Associate Justice Thomas J. Lennon, Associate Justice William P. Lawlor, Chief Justice Lucien Shaw, Associate Justice Curtis D. Wilbur, Associate Justice William A. Sloane, Associate Justice William H. Waste.

D. The court's general procedures for circulation of calendar memoranda, etc., are as follows:

1. The justice to whom a case is assigned prepares and circulates a calendar memorandum within a prescribed time after the filing of the last brief. When the calendar memorandum circulates, the Calendar Coordinator distributes copies of the briefs to each justice. The record remains with the Calendar Coordinator, to be borrowed as needed by a justice or his or her staff.
2. Within a prescribed time after the calendar memorandum circulates, each justice states his or her preliminary response to the calendar memorandum (i.e., that he or she concurs, concurs with reservations, is doubtful, or does not concur). Each justice also indicates whether he or she intends to write a separate concurring or dissenting calendar memorandum in the case. If it appears from the preliminary responses that a majority of the justices concur in the original calendar memorandum, the Chief Justice places the case on a pre-argument conference (§ VI.D.4, post). If it appears from the preliminary responses that a majority of the justices will probably not concur in the original calendar memorandum or a modified version of that memorandum, the Chief Justice places the matter on a conference for discussion or reassigns the case.
3. Each justice who wishes to write a concurring or dissenting calendar memorandum does so and circulates that memorandum within a prescribed time after the original calendar memorandum circulates. Soon



The California Supreme Court in 1927. Left to right: Associate Justice John W. Preston, Associate Justice John W. Shen, Associate Justice Emmet Seawell, Chief Justice William H. Waste, Associate Justice John E. Richards, Associate Justice Jesse W. Curtis, Associate Justice William H. Langdon.

after any concurring or dissenting calendar memorandum circulates, each justice either confirms his or her agreement with the original calendar memorandum or indicates his or her agreement with the concurring or dissenting calendar memorandum. If the original calendar memorandum thereby loses its tentative majority, the Chief Justice places the matter on a conference for discussion or reassigns the case.

4. The Chief Justice convenes a pre-argument conference at least once each month. The purpose of the conference is to identify those cases that appear ready for oral argument. The Chief Justice constructs the calendars from those cases.

The Chief Justice places on the agenda of the conference any case in which all concurring or dissenting calendar memoranda have circulated and the “majority” calendar memorandum has been approved by at least four justices or is likely to be approved



Jesse W. Carter



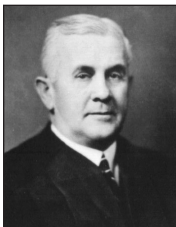
Douglas L. Edmonds



John W. Shenk



*William H. Waste
Chief Justice*



Jesse W. Curtis



Frederick W. Houser



Phil S. Gibson

The California Supreme Court in 1939. Top, left to right: Associate Justice Jesse W. Carter, Associate Justice Douglas L. Edmonds, Associate Justice John W. Shenk, Chief Justice William H. Waste. Bottom, left to right: Associate Justice Jesse W. Curtis, Associate Justice Frederick W. Houser, Associate Justice Phil S. Gibson.

by four justices at the conference. The Chief Justice also includes on the agenda any case in which discussion could facilitate resolution of the issues.

VII. SUBMISSION

A. A cause is submitted when the court has heard oral argument or has approved a waiver of argument and the time has passed for filing all briefs and papers, including any supplementary brief permitted by the court.

B. Submission may be vacated only by an order of the Chief Justice stating in detail the reasons therefor. The order shall provide for prompt resubmission of the cause.

VIII. ASSIGNMENTS FOR PREPARATION OF OPINIONS

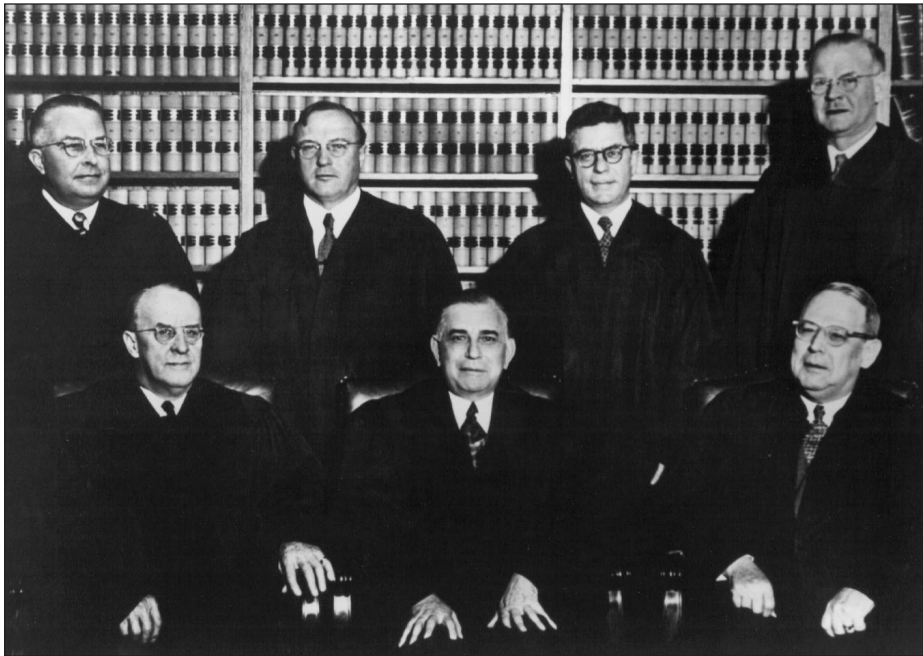
A. After argument the Chief Justice convenes a conference to determine whether the calendar memorandum continues to represent the views of a majority of the justices. In light of that discussion, the Chief Justice assigns the case for opinion.

B. The Chief Justice assigns the cases for preparation of opinions in the following manner:

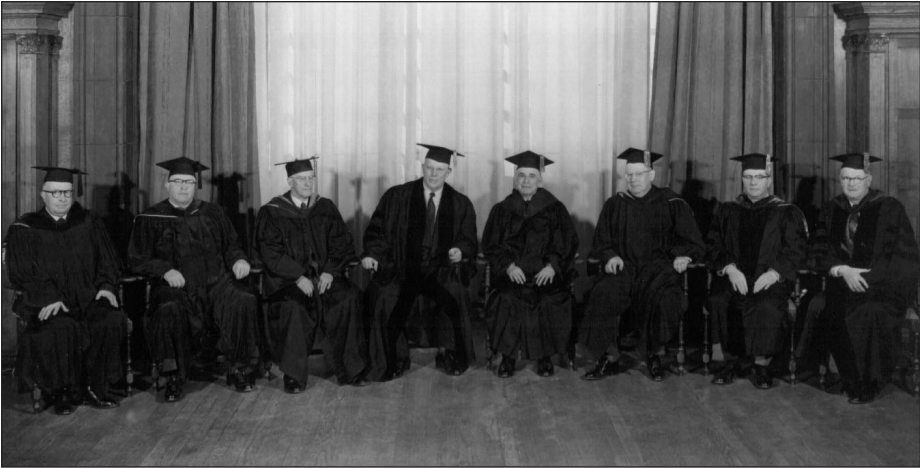
1. If a majority of the justices agree with the disposition suggested in the calendar memorandum, ordinarily the case is assigned to the author of that memorandum.
2. If a majority of the justices disagree with the disposition reached in the memorandum, the case is reassigned to one of the majority.
3. When a case is argued on rehearing, it ordinarily remains with the justice who prepared the prior opinion or the supplemental calendar memorandum if it appears that he or she can express the majority view. If he or she does not agree with the majority view, the case is reassigned to a justice who is a member of the majority.
4. In making assignments pursuant to these guidelines, the Chief Justice takes several considerations into account, including the following: (a) the fair distribution of work among the members of the court; (b) the likelihood that a justice can express the view of the majority of the court

in a particular case; (c) the amount of work he or she has done on that case or on the issues involved; and (d) the status of the unfiled cases theretofore assigned to him or her.

C. Every reasonable effort is made by the justices to agree on the substance of opinions, and whenever possible, dissents or special concurrence on minor matters are avoided. When a justice discovers that he or she objects to something in a proposed opinion, he or she will call it to the author's attention. In addition, the objecting justice may prepare and circulate a memorandum setting forth his or her concerns and suggestions for the purpose of giving the author an opportunity to conform to any proposed changes and to remove or meet the objections raised. These practices and filing policies (see § X, post) reflect the court's strong preference for assuring that each opinion author be allowed sufficient time to consider the views of every justice before the opinion is released for filing.



The California Supreme Court in 1949. Left to right: Associate Justice B. Rey Schauer, Associate Justice John W. Shenk, Associate Justice Jesse W. Carter, Chief Justice Phil S. Gibson, Associate Justice Roger J. Traynor, Associate Justice Douglas L. Edmonds, Associate Justice Homer R. Spence.



Charter Day, University of California, March 24, 1954. Left to right: Associate Justice B. Rey Schauer, Associate Justice Jesse W. Carter, Associate Justice John W. Shenk, Chief Justice Earl Warren of the United States Supreme Court, Chief Justice Phil S. Gibson, Associate Justice Douglas L. Edmonds, Associate Justice Roger J. Traynor, Associate Justice Homer R. Spence.

D. Unless otherwise ordered by the Chief Justice, all opinions in State Bar and Commission on Judicial Performance cases and all memorandum opinions are issued “By the Court.” All other opinions identify the author and the concurring justices unless the author desires to have the opinion appear “By the Court” and a majority of the court agree.

E. The rules of the *California Style Manual* are consulted in the preparation of opinions as well as conference and calendar memoranda.

IX. CIRCULATION OF OPINIONS

Within a prescribed time after submission, the justice to whom the case is assigned circulates the proposed majority opinion. Within a prescribed time after the proposed majority opinion circulates, all concurring or dissenting opinions circulate. If the author of the proposed majority opinion wishes to respond by change or by memorandum to any concurring or dissenting opinion, he or she does so promptly after that opinion circulates. The author of the concurring or dissenting opinion thereafter has a prescribed time in which to respond.



The California Supreme Court in 1960 in the Library and Courts Building, Sacramento. Left to right: Associate Justice Thomas P. White, Associate Justice Marshall F. McComb, Associate Justice Roger J. Traynor, Chief Justice Phil S. Gibson, Associate Justice B. Rey Schauer, Associate Justice Raymond E. Peters, Associate Justice Maurice T. Dooling, Jr.

All opinions are cite-checked and proofread before circulating. Only copies of an opinion circulate; the original remains in the Calendar Coordination Office, where any justice may sign it.

X. FILING OF OPINIONS

Opinions are completed in time for reproduction and filing on a normal opinion-filing day. Unless good cause to vacate submission appears, the opinions are filed on or before the 90th day after submission. Internal circulation of an opinion after the 80th day following submission may result in the inability of the author of the proposed majority or of another timely circulated opinion to afford the views contained in the late circulated opinion full consideration and response. Such late circulated opinions will not be filed until at least 10 days but in no event more than 20 days after the filing of the majority opinion. At any time before the majority or lead opinion is final, the court may modify or grant rehearing pursuant to the applicable rules of court.

XI. REVIEW OF DETERMINATIONS BY THE COMMISSION ON JUDICIAL PERFORMANCE

A petition for review of a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or disqualify a judge or former judge under subdivi-

sion (d) of section 18 of article VI of the California Constitution must address both the appropriateness of review and the merits of the commission's determination. The commission may file a response, and the petitioner a reply, within prescribed times. The petition is assigned by the Calendar Coordinator, under the direction of the Chief Justice, to the civil central staff. When briefing is complete, the staff prepares a conference memorandum in which the recommendation generally will be either to "Deny" or "Retain for Further Consideration." If a majority of the justices vote to "deny," the petition is denied, and an order to that effect is filed forthwith. If a majority vote to "retain for further consideration," the Chief Justice assigns the case to a justice who voted to retain. This justice then prepares a memorandum on the merits, which will serve as a calendar memorandum if an order granting review subsequently is filed. The court's usual procedures for circulation of calendar memoranda then are followed. Once all concurring and dissenting memoranda have circulated, and it appears there is a majority for a particular disposition, the matter is considered at a conference. If a majority vote to deny review, an order to that effect is filed forthwith. If a majority vote to grant review,



The California Supreme Court in 1964. Left to right: Associate Justice Stanley Mosk, Associate Justice Marshall F. McComb, Associate Justice Mathew O. Tobriner, Chief Justice Roger J. Traynor, Associate Justice Raymond E. Peters, Associate Justice B. Rey Schauer, Associate Justice Paul Peek.

an order to that effect is filed, and the case is simultaneously set for oral argument at the soonest possible time under the court's usual scheduling rules. Because of the time limitations in subdivision (d) of section 18 of article VI of the California Constitution, continuance of oral argument rarely will be granted. Following oral argument and submission of the cause, the court's usual rules for preparation and circulation of opinions apply.

XII. ABSENCE OF JUSTICES

A. If an opinion bears the signatures of four justices, it may be filed as provided above in section X, even though one or more of the signers are absent from the state and regardless of whether the absentee justice is the author of the opinion.

B. When a justice votes to issue a writ or order to show cause, or to grant review or rehearing, and then leaves the state prior to the making of the order, the case may be assigned to him or her if, under these procedures, it would normally be so assigned if he or she were present.

C. As soon as a justice knows that he or she will not be attending a conference of the court, he or she will notify the Chief Justice. Any justice may leave his or her votes on any given conference matter.

XIII. DISQUALIFICATION OF JUSTICES AND ASSIGNMENT OF RETIRED JUSTICES

A. As soon as a justice discovers that he or she is disqualified in any case or, although not technically disqualified, deems it advisable not to participate, he or she will notify the Calendar Coordinator.

B. When it is known after a case is granted but before argument that a justice for any reason is unable to participate in a matter, the Chief Justice pursuant to constitutional authority (Cal. Const., art. VI, § 6) assigns on a rotational basis a Court of Appeal justice to assist the court in place of the nonparticipating justice.

C. If an assigned justice has participated in the decision of a case before this court, that justice will also participate in any further proceedings—including requests for modification, petitions for rehearing, and rehearings—until such time as the decision has become final. This procedure is to be followed unless the original assignment was

necessitated by the absence of a regular justice of this court, in which event a regular justice, if able to do so, will participate in lieu of the assigned justice in the consideration of any petition for rehearing and, if rehearing is granted, in any subsequent proceeding.

D. If a justice retires before a case in which he or she has heard oral argument is final, he or she may be assigned to continue to participate in the case. When a permanent replacement justice appointed to fill the vacancy created by the retirement of that justice has taken the oath of office, and the opinion has been filed, any petition for rehearing will be acted on by the permanent replacement justice.

XIV. APPLICATIONS FOR RECOMMENDATIONS FOR EXECUTIVE CLEMENCY, HABEAS CORPUS, AND STAYS

A. An application for a recommendation for executive clemency comes before this court pursuant to article V, section 8, subdivision (a) of the California Constitution and Penal Code section 4851. When such applications are received by the Clerk's Office, they are given a file number, and the fact that they have been filed is a matter of public record. The papers and documents transmitted to the court by the Governor with the application often contain material that the Governor may have the right to withhold from the public. (See Gov. Code, § 6254, subs. (c), (f), & (l); Civ. Code, § 1798.40, subd. (c).) Accordingly, the court treats these files as confidential and does not make them available to the public.



A special session of the California Supreme Court in conjunction with the Old Monterey Bicentennial, Colton Hall, Monterey, May 1, 1970. Left to right: Associate Justice Louis H. Burke, Associate Justice Mathew O. Tobriner, Associate Justice Marshall F. McComb, Chief Justice Donald R. Wright, Associate Justice Raymond E. Peters, Associate Justice Stanley Mosk, Associate Justice Raymond L. Sullivan.



The California Supreme Court in 1974. Left to right: Associate Justice William P. Clark, Jr., Associate Justice Marshall F. McComb, Associate Justice Stanley Mosk, Chief Justice Donald R. Wright, Associate Justice Raymond L. Sullivan, Associate Justice Mathew O. Tobriner, Associate Justice Frank K. Richardson.

Applications are denied unless four or more justices vote to recommend that clemency be granted. The Chief Justice informs the Governor by letter of the court's recommendation, and a copy of such letter is included in the court's file and considered a matter of public record. Pursuant to the provisions of Penal Code section 4852, the Clerk transmits the record to the office of the Governor if the court's recommendation is favorable to the applicant. Otherwise, the documents remain in the files of the court. (See Pen. Code, § 4852.)

B. When a defendant in a criminal case files a petition for review after denial without opinion by the Court of Appeal of a petition for prohibition or mandate attacking a Penal Code section 995 or section 1538.5 ruling, the matter will be placed on the agenda of a regular conference and will not be accelerated. Absent extraordinary circumstances, no order staying the trial will issue. If the case goes to trial and the matter becomes moot before the regular conference, the memorandum need only so state, and the petition may then be denied as moot without the necessity of considering its merits.



The California Supreme Court in 1982. Left to right: Associate Justice Otto M. Kaus, Associate Justice Frank K. Richardson, Associate Justice Mathew O. Tobriner, Chief Justice Rose Elizabeth Bird, Associate Justice Stanley Mosk, Associate Justice Frank C. Newman, Associate Justice Allen E. Broussard.

When the Court of Appeal has denied such a writ petition with opinion, a request to stay the trial pending action by the Supreme Court on the petition for review will be granted when necessary to prevent the matter from becoming moot.

C. When a misdemeanor conviction has become final on appeal or a final contempt order has been filed by a trial court and the defendant or contemner files a petition for review following denial of a timely habeas corpus or certiorari petition by a Court of Appeal or files a timely original petition, a stay of execution of the judgment or order will issue pending determination of the petition. The Chief Justice may condition the stay on the filing of a bond or on the continuation of an appeal bond, if any, if he or she deems it appropriate to do so. If the petition appears to lack merit, however, expedited consideration will be given to deny the petition in preference to releasing an incarcerated petitioner.

D. Pending disposition of a petition for writ of habeas corpus to review an order permitting extradition, the Chief Justice may stay extradition on behalf of the court. If the petition appears to lack merit, however, expedited consideration will be given to deny the petition in preference to staying the extradition proceedings.

E. In cases not covered by subdivisions B and C of this section, and when not precluded by subdivision G of this section, the Chief Justice may, in his or her discretion, grant applications for stays of judicial proceedings or orders pending regular conference consideration of the matters involved.

F. Except as provided in subdivisions B through E of this section and except in emergencies, petitions for habeas corpus, applications for stays of judicial proceedings or orders, and applications for stays of execution are to be resolved at the weekly case conference.

G. Stays governed by special provisions of statutes or rules of court will be issued only in compliance with such provisions. (See, e.g., Pub. Util. Code, §§ 1761–1766; Cal. Rules of Court, rule 49.)

H. Applications to stay actions by public agencies or private parties pending consideration of petitions for writs of mandate (i.e., Emeryville-type stays [see *People ex rel. S. F. Bay etc. Com. v. Town of Emeryville* (1968) 69 Cal.2d 533]) are to be resolved at the weekly case conference.

I. Upon receipt of a proper notice of bankruptcy relating to a pending petition for review in a creditor's action or an action that would diminish the relevant estate, the court will file an order noting the stay of proceedings and suspending the operation of



The California Supreme Court in 1986 in the Chief Justice's chambers. Left to right: Associate Justice Stanley Mosk, Associate Justice Malcolm M. Lucas, Associate Justice Cruz Reynoso, Chief Justice Rose Elizabeth Bird, Associate Justice Joseph R. Grodin, Associate Justice Edward A. Panelli (standing), and Associate Justice Allen E. Broussard (seated).

the applicable rule 28 time period. (See 11 U.S.C. § 362(a)(1).) Thereafter, the parties will be directed to file quarterly status reports to apprise the court of the current status of the bankruptcy proceedings. Upon receipt of a proper notice terminating the bankruptcy stay, the court shall enter an order terminating the stay of proceedings and indicating that the applicable time period of rule 28, subdivision (a), shall begin running anew from the date of the order.

XV. APPOINTMENT OF ATTORNEYS IN CRIMINAL CASES

A. In criminal matters, upon a verified or certified statement of indigency, the court, acting through the Clerk's Office, will appoint an attorney for a party in the following instances:

1. In a pending case in which the petition for review has been granted;
2. In a pending automatic appeal and/or related state habeas corpus/executive clemency proceedings;



The California Supreme Court in 1987 at the Chief Justice's conference table. Left to right: Associate Justice Edward A. Panelli, Associate Justice Stanley Mosk, Associate Justice David N. Eagleson, Chief Justice Malcolm M. Lucas, Associate Justice John A. Arguelles, Associate Justice Allen E. Broussard, Associate Justice Marcus M. Kaufman.

3. In an original proceeding in which an alternative writ or an order to show cause has been issued;
4. In capital cases in the following proceedings:
 - (a) Proceedings for appellate or other postconviction review of state court judgments in the United States Supreme Court, subject however to the power of that court to appoint counsel therein; and
 - (b) Conduct of sanity hearings when indicated.

B. At or after the time the court appoints appellate counsel to represent an indigent appellant on direct appeal, the court also shall offer to appoint habeas corpus/executive clemency counsel for each indigent capital appellant. Following that offer, the court shall appoint habeas corpus/executive clemency counsel unless the court finds, after a hearing if necessary (held before a referee appointed by the court), that the appellant rejected the offer with full understanding of the legal consequences of the decision.

C. The court's Automatic Appeals Monitor is responsible for recruiting, evaluating, and recommending the appointment of counsel on behalf of indigent appellants in capital appeals and/or related state habeas corpus/executive clemency proceedings.

D. Counsel in automatic appeals and/or related state habeas corpus/executive clemency proceedings are compensated by one of two alternative methods: Under the "time and costs" method, counsel are compensated on an hourly basis and reimbursed for necessary expenses that were reasonably incurred. The court makes partial payments on counsel's fee claims while these claims are pending full review. Under the alternative optional "fixed fee and expenses" method, counsel are paid a fixed amount at regular stages of a case, according to a predetermined assessment of its difficulty.

E. Habeas corpus petitions in capital cases are governed by the timeliness and compensation standards set out in the "Supreme Court Policies Regarding Cases Arising From Judgments of Death." Habeas corpus counsel appointed in capital cases have the duty to investigate factual and legal grounds for the filing of a petition for a writ of habeas corpus, as delineated in those policies.

XVI. COMMUNICATIONS FROM COUNSEL IN PENDING CASES

Whenever a matter is pending before the court, any communication to the court from counsel is to be addressed to the Clerk's Office, with copies to all counsel.

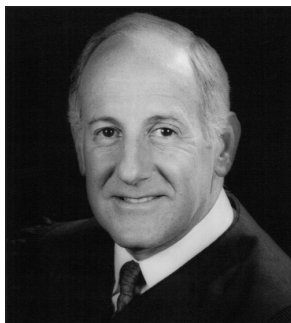
XVII. SUSPENSION OF PROCEDURES

Whenever exceptional or emergency conditions require speedy action, or whenever there is other good cause for special action regarding any matter, the operation of these procedures may be temporarily suspended by affirmative vote of four justices.

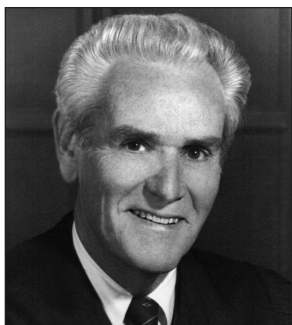
The Chief Justice may extend any applicable time limit (except that stated in section X) on written request by a justice stating good cause and the date by which he or she expects to comply.



The California Supreme Court in 1996 in the Sacramento courtroom. Left to right: Associate Justice Ming W. Chin, Associate Justice Stanley Mosk, Associate Justice Marvin R. Baxter, Chief Justice Ronald M. George, Associate Justice Kathryn M. Werdegarr, Associate Justice Joyce L. Kennard, Associate Justice Janice R. Brown.



Ronald M. George
Chief Justice of California
1996–present



Malcolm M. Lucas
Chief Justice of California
1987–1996



Rose Elizabeth Bird
Chief Justice of California
1977–1987



Donald R. Wright
Chief Justice of California
1970–1977



Roger J. Traynor
Chief Justice of California
1964–1970

APPENDIX I: CHIEF JUSTICES OF CALIFORNIA*

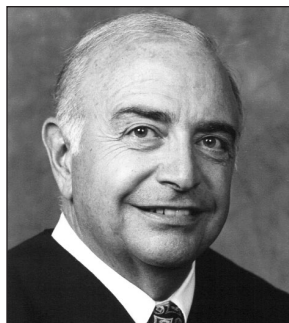
1. S. Clinton Hastings	January 1850–January 1852
2. Henry A. Lyons	January 1852–March 1852
3. Hugh C. Murray	March 1852–September 1857
4. David S. Terry	October 1857–September 1859
5. Stephen J. Field	September 1859–May 1863
6. W. W. Cope	May 1863–January 1864
7. Silas W. Sanderson	January 1864–January 1866
8. John Currey	January 1866–January 1868
9. Lorenzo Sawyer	January 1868–January 1870
10. Augustus L. Rhodes	January 1870–January 1872
11. Royal T. Sprague	January 1872–February 1872
12. William T. Wallace	February 1872–November 1879
13. Robert F. Morrison	November 1879–March 1887
14. Niles Searls	April 1887–January 1889
15. William H. Beatty	January 1889–August 1914
16. Matt I. Sullivan	August 1914–January 1915
17. Frank M. Angellotti	January 1915–November 1921
18. Lucien Shaw	November 1921–January 1923
19. Curtis D. Wilbur	January 1923–March 1924
20. Louis W. Myers	March 1924–January 1926
21. William H. Waste	January 1926–June 1940
22. Phil S. Gibson	June 1940–August 1964
23. Roger J. Traynor	September 1964–February 1970
24. Donald R. Wright	April 1970–February 1977
25. Rose Elizabeth Bird	March 1977–January 1987
26. Malcolm M. Lucas	February 1987–April 1996
27. Ronald M. George	May 1996–present

* Due to the lack of uniformity in historical sources, only the month and year in which each justice assumed and left office are used in Appendices I and II. Since 1977 the *Official Reports* have listed the date of the oath of office as the beginning of each justice's tenure.



Joyce L. Kennard

Associate Justice
1989–present



Marvin R. Baxter

Associate Justice
1991–present



Kathryn M. Werdegar

Associate Justice
1994–present



Ming W. Chin

Associate Justice
1996–present



Janice R. Brown

Associate Justice
1996–present



Carlos R. Moreno

Associate Justice
2001–present

APPENDIX II: JUSTICES OF THE CALIFORNIA SUPREME COURT

1. S. Clinton Hastings*	January 1850–January 1852
2. Henry A. Lyons*	December 1849–March 1852
3. Nathaniel Bennett	December 1849–October 1851
4. Hugh C. Murray*	October 1851–September 1857
5. Solomon Heydenfeldt	January 1852–January 1857
6. Alexander Anderson	April 1852–January 1853
7. Alexander Wells	January 1853–October 1854
8. Charles H. Bryan	November 1854–November 1855
9. David S. Terry*	November 1855–September 1859
10. Peter H. Burnett	January 1857–October 1858
11. Stephen J. Field*	October 1857–May 1863
12. Joseph G. Baldwin	October 1858–January 1862
13. W. W. Cope*	September 1859–January 1864
14. Edward Norton	November 1861–January 1864
15. E. B. Crocker	May 1863–January 1864
16. Silas W. Sanderson*	January 1864–January 1870
17. John Currey*	January 1864–January 1868
18. Lorenzo Sawyer*	January 1864–January 1870
19. Augustus L. Rhodes*	January 1864–January 1872
20. Oscar L. Shafter	January 1864–December 1867
21. Royal T. Sprague*	January 1868–February 1872
22. Joseph B. Crockett	December 1867–January 1880
23. William T. Wallace*	December 1869–November 1879
24. Jackson Temple	January 1870–January 1872 December 1886–June 1889 January 1895–December 1902
25. Addison C. Niles	January 1872–January 1880
26. Isaac S. Belcher	March 1872–January 1874
27. E. W. McKinstry	January 1874–October 1888
28. Robert F. Morrison*	November 1879–March 1887



The Supreme Court bench in the Capitol building, Sacramento. The court was housed here from 1869 to 1874.



105 Stockton Street, San Francisco. The court was located on the right side of this block from 1881 to 1883.

29. Erskine M. Ross
30. John R. Sharpstein
31. Samuel Bell McKee
32. Milton H. Myrick
33. James D. Thornton
34. A. Van R. Paterson
35. Thomas B. McFarland
36. Niles Searls*
37. John D. Works
38. William H. Beatty*
39. Charles N. Fox
40. John J. De Haven
41. Charles H. Garoutte
42. Ralph C. Harrison
43. William F. Fitzgerald
44. W. C. Van Fleet
45. Frederick W. Henshaw

January 1880–October 1886
January 1880–December 1892
January 1880–December 1887
January 1880–January 1887
January 1880–January 1891
January 1887–April 1894
January 1887–September 1908
April 1887–January 1889
October 1888–January 1891
January 1889–August 1914
June 1889–January 1891
January 1891–January 1895
January 1891–January 1903
January 1891–January 1903
January 1893–January 1895
April 1894–January 1899
January 1895–January 1918



The damaged entrance to the Emporium Building, 825 Market Street, San Francisco, 1906. The court was located here during the great earthquake and fire.

46. Walter Van Dyke	January 1899–December 1905
47. Frank M. Angellotti*	January 1903–November 1921
48. Lucien Shaw*	January 1903–January 1923
49. William G. Lorigan	January 1903–January 1919
50. M. C. Sloss	February 1906–February 1919
51. Henry A. Melvin	September 1908–April 1920
52. Matt I. Sullivan*	August 1914–January 1915
53. William P. Lawlor	January 1915–July 1926
54. Curtis D. Wilbur*	January 1918–March 1924
55. Thomas J. Lennon	January 1919–August 1926
56. Warren Olney, Jr.	March 1919–July 1921
57. William A. Sloane	May 1920–December 1922
58. Charles A. Shurtleff	July 1921–December 1922
59. William H. Waste*	November 1921–June 1940
60. Terry W. Ward	December 1922–January 1923
61. Frank H. Kerrigan	January 1923–February 1924
62. Emmet Seawell	January 1923–July 1939
63. Louis W. Myers*	January 1923–January 1926
64. John E. Richards	February 1924–June 1932
65. John W. Shenk	April 1924–August 1959

66. Jesse W. Curtis	January 1926–January 1945
67. Frank G. Finlayson	October 1926–December 1926
68. Jeremiah F. Sullivan	November 1926–January 1927
69. John W. Preston	December 1926–October 1935
70. William H. Langdon	January 1927–August 1939
71. Ira F. Thompson	December 1932–August 1937
72. Nathaniel P. Conrey	October 1935–November 1936
73. Douglas L. Edmonds	November 1936–December 1955
74. Frederick W. Houser	September 1937–October 1942
75. Jesse W. Carter	September 1939–March 1959
76. Phil S. Gibson*	September 1939–August 1964
77. Roger J. Traynor*	August 1940–February 1970
78. B. Rey Schauer	December 1942–September 1964
79. Homer R. Spence	January 1945–June 1960
80. Marshall F. McComb	January 1956–May 1977
81. Raymond E. Peters	March 1959–January 1973
82. Thomas P. White	August 1959–October 1962
83. Maurice T. Dooling, Jr.	June 1960–June 1962
84. Mathew O. Tobriner	July 1962–January 1982
85. Paul Peek	December 1962–December 1966
86. Stanley Mosk	September 1964–June 2001
87. Louis H. Burke	November 1964–November 1974
88. Raymond L. Sullivan	December 1966–January 1977
89. Donald R. Wright*	April 1970–February 1977
90. William P. Clark, Jr.	March 1973–March 1981
91. Frank K. Richardson	December 1974–December 1983
92. Wiley W. Manuel	March 1977–January 1981
93. Rose Elizabeth Bird*	March 1977–January 1987
94. Frank C. Newman	July 1977–December 1982
95. Otto M. Kaus	July 1981–October 1985
96. Allen E. Broussard	July 1981–August 1991
97. Cruz Reynoso	February 1982–January 1987

98. Joseph R. Grodin	December 1982–January 1987
99. Malcolm M. Lucas*	April 1984–April 1996
100. Edward A. Panelli	December 1985–January 1994
101. John A. Arguelles	March 1987–March 1989
102. David N. Eagleson	March 1987–January 1991
103. Marcus M. Kaufman	March 1987–January 1990
104. Joyce L. Kennard	April 1989–Present
105. Armand Arabian	March 1990–February 1996
106. Marvin R. Baxter	January 1991–Present
107. Ronald M. George*	September 1991–Present
108. Kathryn M. Werdegarr	June 1994–Present
109. Ming W. Chin	March 1996–Present
110. Janice R. Brown	May 1996–Present
111. Carlos R. Moreno	October 2001–Present

* Served as Chief Justice of California. See Appendix I for each individual's length of service as Chief Justice. Some justices have served as both Chief Justice and associate justice.



Left: 303 Second Street, San Francisco. The court was located on the top two floors of the foreground building from 1991 to 1999.

Below: The Hiram W. Johnson State Office Building (taller structure) and the Earl Warren Building (foreground), at the San Francisco Civic Center, 1999.



IMAGE CREDITS

Suzanne Bean: Pages v, vi, 2, 4–6, 8, 18 (montage), 21–24.

California Historical Society: Pages 10 (montage), 12 (bottom), 13, 54 (right).

California State Library: Page 54 (left).

California Supreme Court Archives: Pages 3 (photo by Suzanne Bean), 12 (top; photo by Suzanne Bean), 14 (top and bottom), 15 (top and bottom), 17, 26–36, 38–41, 43–47, 49, 50, 52, 55, 57 (left).

William A. Porter: Front cover; pages 9 (top), 16, 18 (top), 20, 57 (right); back cover.

Paul Sakuma: Page 9 (bottom).



SUPREME COURT of CALIFORNIA

350 McAllister Street, San Francisco, California 94102-4797

www.courtinfo.ca.gov/courts/supreme